United Nations A/71/355

General Assembly

Distr.: General
24 August 2016

Original: English

Seventy-first session
Item 50 of the provisional agenda*
Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories

Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan

Report of the Secretary-General**

Summary

The present report has been prepared by the Office of the United Nations High Commissioner for Human Rights pursuant to General Assembly resolution 70/89 and provides an update on Israel's activities aimed at creating and expanding settlements in the West Bank, including East Jerusalem, and in the occupied Syrian Golan. It includes a case study on the impact of the settlements on the human rights situation in Hebron.

* A/71/150.
** The present report was submitted after the deadline in order to reflect the most recent developments.

16-14675 (E) 130916

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I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 70/89 and provides an update on its implementation for the period from 16 May 2015 to 31 May 2016. It should be read in conjunction with previous reports of the Secretary-General on Israeli settlements to the Assembly and to the Human Rights Council.[1]

2. The report shows how settlement expansion activities continued unabated within the Occupied Palestinian Territory and that instances of settler violence remained a concern, notwithstanding a decline in incidence. It also features a case study on the impact of the settlements on the human rights situation in the West Bank city of Hebron.

II. Legal background

3. In its resolution 70/89, the General Assembly reaffirmed the illegality of the Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, as ruled by the International Court of Justice, and reiterated by the Security Council and the High Commissioner for Human Rights. These settlements amount to the transfer of a State's population to the territory it occupies, which is prohibited by international humanitarian law.[2] To meet its international legal obligations, Israel must stop building settlements, reverse any settlement development activity and make full reparations, which include the obligation to re-establish the situation affected by the violation.[3] The transfer of the occupying Power's population to the territory it occupies amounts to a war crime that may lead to the individual criminal responsibility of the officials involved.[4]

III. Update on settlement-related activities

A. Settlement expansion

4. Previous reports of the Secretary-General have clarified the role of Israel in the construction and expansion of settlements.[5] Besides the allocation of land for the purposes of constructing settlement homes and infrastructure, Israel also supports settlements through the delivery of public services, the encouragement of economic activities, including agriculture and industries around the settlements, the development of national parks and tourist sites, support for private initiatives and the retroactive approval of unauthorized constructions. Population growth in Israeli

[1] See A/HRC/28/44 and, in particular, A/HRC/31/43, which cover the first months of the period under review. See also A/69/348 and A/70/351.

[2] Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 (Fourth Geneva Convention), art. 49 (6). See also A/69/348, paras. 4 and 5, and A/HRC/25/38, paras. 4 and 5.

[3] International Law Commission, draft articles for the responsibility of States for internationally wrongful acts, 2001, arts. 30 and 31.

[4] Rome Statute of the International Criminal Court, art. 8 (2) (b) (viii).

[5] A/68/513, paras. 23-29, A/69/348, paras. 33-35, and A/70/351, paras. 33-36.

settlements is also encouraged by providing benefits and incentives in the areas of housing, education and taxes.

B. Constructions, tenders and plans

5. Steps by Israel to expand settlements in the West Bank, including East Jerusalem, continued. In March 2016, Israeli media reported that Israel had declared 234 hectares of land south of Jericho, the largest appropriation of land since August 2014, as "State land".[6] Overall trends point to a slowdown in the issuance of planning approvals and tenders in 2015, with 1,143 housing units tendered, returning to pre-2012 figures.[7] However, this has been offset by support for private initiatives and steps to gain the retroactive approval of unauthorized construction during the same period.

6. By contrast, construction rates remained high, in particular for Area C, with 1,806 construction starts recorded by Israel's Central Bureau of Statistics for 2015, compared with 1,556 construction starts in 2014. This likely reflects the significant number of units that had already been cleared for construction in previous years. East Jerusalem saw a drop in construction starts in 2015 (429 starts), after a year of intensive building in 2014.

C. Privately led initiatives supported by Israel

7. An unprecedented wave of seizures of Palestinian properties by private settler associations in the Old City of Jerusalem and adjacent neighbourhoods has been reported by the non-governmental organization (NGO) Ir Amim since mid-2015.[8] This trend includes the forced evictions of Palestinian families from their homes. These seizures and evictions are attributable mainly to the settler-affiliated organization Ateret Cohanim (A/70/351, paras. 29-32), which has been purchasing East Jerusalem houses or filing successful pre-1948 ownership claims,[9] with the apparent support of the Israeli Ministry of Justice.[10] Various State authorities have also aided in or coordinated the transfer of property and the eviction of Palestinians.

8. Of particular concern are ongoing developments within the Batan al-Hawa neighbourhood of Silwan, which is likely to feature the largest settlement near the Old City and adjacent neighbourhoods. On 26 August and 1 September 2015, Israeli settlers escorted by police moved into two residential buildings. On 19 October 2015, two Palestinian families were forcibly evicted, as police officers were deployed and the entire area placed under curfew. While 17 Palestinian families had

[6] "Israel seizes large tracts of land in West Bank, report says", *Haaretz*, 15 March 2016.

[7] From July 2014 to May 2016, 330 units were validated for construction in Area C settlements, compared with 1,035 during the first half of 2014 alone.

[8] Ir Amim, "Planning, building, and settlements in East Jerusalem: 2015 year-end review", January 2016.

[9] Under Israeli law, Israeli citizens may submit claims regarding land or property allegedly owned by Jews in East Jerusalem prior to the establishment of the State of Israel. The reciprocal right is not granted to Palestinians, who are not entitled to reclaim land and property in Israel.

[10] Ir Amim, "Planning, building and settlements in East Jerusalem: 2015 year-end review", and Nir Hasson, "How Israel helps settler group move Jews into East Jerusalem's Silwan", *Haaretz*, 6 January 2016.

already been evicted during 2015, eviction demands were pending against 15 additional families and 70 additional families were currently facing the same risk at the time of writing the present report.[8] According to Ir Amim, "these collective and fast unfolding developments signify a steep increase over the last year and a clear pattern of using demolitions and evictions to displace Palestinians from the city".[11] In addition, a building permit request for a large three-story building that would add to an existing settlement is awaiting approval.[12] The development of settlements and the potential arrival of hundreds of settlers in the densely populated area of Batan al-Hawa further exacerbate friction between Palestinian residents, settlers and the Israeli security forces.

9. Palestinian residents of the Old City are also facing evictions. Settlers seized a living space in the Muslim Quarter and evicted its Palestinian resident. Two Palestinian families received eviction orders and claims were submitted against four additional families.[8]

D. "Legalization" of outposts and other unauthorized construction

10. Unauthorized settlement construction in the West Bank remains widespread. More than 100 unauthorized outposts and thousands of housing units in existing settlements have been erected over the years without the formal approval of the Israeli authorities. A recent report of the Israeli State Comptroller[13] concluded that there were substantial flaws in law enforcement mechanisms under the Israeli Civil Administration with regard to the ongoing phenomenon of unauthorized Israeli construction in the West Bank. Those flaws would result in the inadequate monitoring of illegal construction and a lack of enforcement of demolition orders, even in areas designated as high priority.[13]

11. Israel continued to promote settlements in the West Bank through the retroactive approval of illegal constructions.[14] Since May 2011, Israeli authorities have either completed or initiated steps for the retroactive "legalization", under Israeli law,[15] of at least one quarter of the outposts in the Occupied Palestinian Territory and there are indications that those processes are still being advanced.[16] In addition, steps were taken to retroactively approve housing units built without the

[11] Ir Amim, "Mounting uptick in eviction and demolition orders in Old City and historic basin cause for heightened attention".

[12] The Jerusalem Local Planning Committee approved the construction on 15 June 2016. See https://settlementwatcheastjerusalem.wordpress.com/2016/05/31/batan-al-hawa-new-building/.

[13] State Comptroller, "Judea and Samaria area: activities of the Unit for Inspection and Enforcement and Land Regulation Aspects", (annual report No. 66B), 2016.

[14] Ziv Stahl, "From occupation to annexation: the silent adoption of the Levy report on retroactive authorization of illegal construction in the West Bank", position paper (Yesh Din-Volunteers for Human Rights, 2016).

[15] Construction of unauthorized outposts deemed to be illegal under Israeli law. All settlements in the Occupied Palestinian Territory are illegal under international law.

[16] Nineteen outposts have undergone "legalization" and in at least 13 more the Government of Israel has indicated its intentions or initiated the process of "legalization". See Yesh Din-Volunteers for Human Rights, "Under the radar: Israel's silent policy of transforming unauthorized outposts into official settlements", 17 May 2015. During the period under review, the Government conveyed its intentions to the High Court of Justice to retroactively approve outposts in the southern Nablus and eastern Ramallah districts.

prior authorization of the relevant planning authorities.[17] Retroactive legalization typically involves the expansion of the jurisdiction of existing settlements to encompass outposts as nearby "neighbourhoods". While these measures allow Israel to circumvent the formal establishment of new settlements, possibly avoiding international scrutiny, the net effect of these efforts is the entrenchment of otherwise isolated settlement points and their connection with so-called settlement blocs. Joining the dots gradually paves the way for new contiguous areas of settlement control over land. These steps also have the effect of sanctioning illegal activity by settler groups in an environment that has been characterized by a culture of impunity.

12. As previously reported by the Secretary-General, this process marks a significant departure from previous Israeli policy[18] and is reinforced by efforts to adopt the recommendations of the government-appointed committee to examine the status of construction, known as the "Levy committee", which proposed concrete measures for the so-called "regulation", amounting to the retroactive approval of unauthorized settlement construction in the West Bank.[14]

13. Given that 80 per cent of unauthorized outposts were constructed partially or entirely on privately owned Palestinian land,[19] several administrative measures taken in the context of facilitating outpost legalization are aimed at resolving the issue of proprietary status. This includes the appointment, in July 2015, by the Prime Minister of Israel of a professional committee tasked with formulating recommendations to advance retroactive authorizations on privately owned Palestinian land[20] and the work of the Israeli Civil Administration's task force for the survey of State land boundaries, also known as the Blue Line task force, assigned with inspecting and defining the boundaries of land designated as State property, or so-called "State land", by Israeli authorities since 1970 (A/HRC/22/63, para. 63). The task force significantly accelerated its work during the period under review. In 2015 alone, it ratified more than 6,300 hectares of Area C land as "State land", almost as much as during the three previous years.[21]

14. Legislative measures aimed at easing the process of the retroactive authorization of outposts were also introduced. These include the land regulation bill of October 2015, which is currently stalled (A/HRC/31/43, para. 28), and a

[17] Peace Now, "No settlement freeze, especially not in isolated settlements: 2015 in the settlements", February 2016.

[18] Israel's position, as presented on numerous occasions before the High Court of Justice until 2011, affirmed the unauthorized status of outposts and its intention to evacuate and demolish them.

[19] Peace Now, "West Bank settlements: facts and figures, June 2009".

[20] The Committee's conclusions were slated for publication in December 2015; at the time of writing, they had not yet been released.

[21] Ziv Stahl, "From occupation to annexation: the silent adoption of the Levy report on retroactive authorization of illegal construction in the West Bank". The policies and practices of the Blue Line task force have come under increasing scrutiny, including by the Israeli State Comptroller and the High Court of Justice, in particular with regard to a lack of transparency and concerns regarding absent mechanisms to ensure the protection of property rights of Palestinian landowners. The impact of resulting Israeli Civil Administration amendments to the operating procedures of the task force, which were ordered by the Court during the period under review, is yet to be assessed. See A/HRC/31/43, paras. 21-23, and State Comptroller, annual report No. 66B.

newly drafted bill,[22] which seeks to delay the court-ordered demolition of settlement structures built on privately owned Palestinian land.[23]

E. National parks and archaeological sites

15. As previously reported (A/HRC/31/43, para. 16), archaeological excavations, the creation of national parks and the development of tourist activities are other ways that Israel ensures control over Palestinian land.

16. East Jerusalem is particularly affected by such developments (A/70/351, paras. 25-51). At the time of writing, significant plans were pending at various administrative stages, such as the projected parks in Issawiya and in Silwan's Al-Bustan. Seizing orders for the national park on Mount Scopus were issued by the municipality for landscaping purposes in July 2015.[24] The most significant development pertains to the Kedem Compound in Silwan, a major tourist site promoted by the Elad settler organization. In March 2016, the full committee of the National Planning Council issued its formal decision, revoking the June 2015 ruling of the Appeals Committee to reduce the size of the original plans by half. The positive results achieved in 2015 (A/HRC/31/43, para. 19), on the basis of objections from Silwan's residents, NGOs, architects and various planning and conservation experts, have therefore been reversed and the original plan restored as approved by the District Committee in 2014.[25]

17. The full plan for the Kedem Compound foresees the construction of a massive structure of 16,000 square metres that may be at odds with the construction criteria within a national park.[8] Besides its significant impact on the lives of Palestinians in Silwan, the implementation of the plan would represent a milestone in changing the status quo and character of East Jerusalem.

F. Settler violence and law enforcement

18. Between 1 June 2015 and 31 May 2016, the Office for the Coordination of Humanitarian Affairs registered 175 incidents of settler violence against Palestinians resulting in injuries (81) or property damage (94), with a distinct peak (57 reported incidents) in October 2015 and a noticeable decrease in incidents to date in 2016 (38 incidents during the first five months). Some attacks have featured an exceptional degree of violence, such as the arson attack against the Dawabsheh family home in Duma on 31 July 2015 that took the life of an 18-month-old child and his parents (A/HRC/31/43, paras. 35 and 36). In the aftermath of the attack, the Under-Secretary-General for Political Affairs stated that "such violence is possible

[22] Planning and construction law proposal (amendment — enforcement of administrative demolition order) of 2016 introduced by Micky Zohar of the Likud party.

[23] Both bills appear to be motivated by a number of impending deadlines, imposed by the High Court of Justice, for the evacuation of unauthorized settlement construction, including the outpost of Amona.

[24] Nir Hasson, "Palestinians say Jerusalem council trying to turn Mount Scopus into park", *Haaretz*, 5 July 2015.

[25] The decision is currently being challenged on the grounds that it may be politically motivated. See Nir Hasson, "Settler groups asks High Court to cover up its ties to Israeli Justice Minister", *Haaretz*, 23 June 2016.

because of the environment created as a result of Israel's decades-long policy of illegal settlement activities".[26]

19. The Secretary-General has repeatedly reiterated his concern regarding Israel's failure to enforce the law against violent settlers (A/HRC/25/38, paras. 42 and 43). Figures published by the Israeli Ministry of Justice in January 2016 suggest an increasing indictment rate for ideologically motivated offences by Israelis against Palestinians.[27] Nevertheless, according to a recent report by the Israeli NGO Yesh Din-Volunteers for Human Rights on law enforcement on Israeli citizens, only 7.3 per cent of complaints of ideologically motivated offences against Palestinians that were monitored by the organization between 2005 and 2015 led to an indictment, while 85 per cent of investigations were closed owing to police failures within the investigative process, such as the inability to identify suspects or to collect evidence.[28]

20. Following the arson attack in Duma, Israeli authorities adopted measures, including administrative detention and movement restrictions against settlers, in an effort to prevent further incidents of violence (A/HRC/31/43, paras. 40-43). With respect to administrative detention, the Secretary-General has condemned its use by Israel against Palestinians and Israelis alike. On 3 January 2016, media reported that two Israeli suspects had been indicted with regard to the attack in Duma, one being charged with three counts of murder and the other, a child, as accessory to murder.[29] Welcoming these steps towards accountability, the Secretary-General recalls Israel's duty to respect and ensure the respect of human rights in the Occupied Palestinian Territory and calls for prompt and effective investigations in all other cases of alleged settler violence leading to the injury or death of Palestinians, as well as damage to their property.

G. Impact on Palestinian communities at risk of forcible transfer

21. The impact of settlement expansion on Palestinian communities at risk of forcible transfer has been highlighted in previous reports of the Secretary-General (A/HRC/31/43, paras. 44-63). The year 2016 began with a dramatic increase in demolitions in Area C. According to the Office for the Coordination of Humanitarian Affairs, February 2016 saw the highest number of structures demolished in a single month since 2009 when the systematic documentation of demolitions began. As at 7 June 2016, a total of 546 structures, including 79 in East Jerusalem, had been demolished since the beginning of the year, more than the total number of demolitions for the whole of 2015 (453 structures, including 78 in East Jerusalem). Some 796 Palestinians have already been displaced by demolitions in

[26] Statement available from: www.un.org/undpa/en/speeches-statements/19082015/middleeast.

[27] Ministry of Justice, "Israel's investigation and prosecution of ideologically motivated offences against Palestinians in the West Bank".

[28] See Yesh Din-Volunteers for Human Rights, "Law enforcement on Israeli civilians in the West Bank", data sheet, October 2015. See also Yesh Din's analysis of the Ministry of Justice report on Israel's investigation and prosecution of ideologically motivated offences against Palestinians in the West Bank. Available from: www.rightsecretariat.ps/catigory/item/141-yesh-din-s-analysis-of-moj-report-on-israel-s-investigation-and-prosecution-of-ideologically-motivated-offences-against-palestinians-in-the-west-bank.

[29] Chaim Levinson and Barak Ravid, "Israel charges two Jews over West Bank arson murders", *Haaretz*, 3 January 2016.

2016, compared with 580 in 2015. Since March 2016, the rate of demolitions has decreased significantly.

22. Bedouins living in Area C are the most affected by demolitions and at risk of forcible transfer. Khirbet Tana has suffered four rounds of demolition since the beginning of 2016. On 23 March 2016 alone, 53 structures were demolished in the hamlet, resulting in the displacement of 87 persons.

23. Other Palestinian communities were also affected by demolitions. Preparations for the new settlement on the site of Beit al-Baraka along Route 60, next to the Al-Arroub refugee camp, resulted in the demolition of three agricultural structures and the uprooting of 85 trees. On 12 April 2016, demolitions resumed after a pause of four years in Al-Walaja with three houses demolished. This coincided with the resumption of construction of the wall in the nearby Cremisan Valley and the initiation of works for the planned visitor centre of the Emek Refaim national park located nearby.

24. Hundreds of families are at risk of forcible transfer in East Jerusalem owing to the seizure of numerous buildings by Israeli settlers in Silwan and in the Old City, as well as by the development of various parks throughout East Jerusalem. These facts suggest that there is a close link between the rate of demolitions and forcible evictions and settlement expansion. The following case study on Hebron illustrates how the coercive environment generated by settlements forces Palestinians to relocate to different areas.

IV. Impact of settlements: a case study of Hebron's coercive environment

25. After East Jerusalem, Hebron is the second largest city in the West Bank, with a population of 215,000 inhabitants. Its Old City features a site of high religious significance to Jews and Muslims: the Ibrahimi Mosque, or Tomb of the Patriarchs. Hebron is the only other city within the West Bank, besides East Jerusalem, with Israeli settlements within its urban area. Approximately 600 settlers live in five settlements consisting of one to a few buildings: Avraham Avinu, Beit Romano, Beit Hadassah, Tel Rumeida and Beit al-Rajabi.

26. These settlements are part of the H2 zone, the area of Hebron in which Israel retained all authority and responsibilities for internal security and public order under the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip.[30] H2 covers approximately 20 per cent of Hebron, including the Old City, which was once the centre of commercial and cultural life in Hebron, and includes approximately 40,000 of its inhabitants. In addition to settlements in H2, the zone is surrounded by two large settlements, Kiryat Arba and Givat Ha'avot, with a cumulated settler population of 7,000. To ensure the security of the settlers, an average of 1,500 Israel Defense Forces soldiers have been deployed among 6,000 Palestinians living in adjacent neighbourhoods.

[30] Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip of 28 September 1995, annex I, art. VII, implemented by the Protocol concerning the Redeployment in Hebron of 21 January 1997.

27. The settlement of Beit al-Rajabi was the latest to be established after the Israeli Supreme Court had ruled in favour of settler ownership of the building in 2014. It is the first new settlement established in the city of Hebron since 1980 (A/69/348, paras. 22 and 23). In April 2012, settlers took over another Palestinian building in H2, the Abu Rajab house, claiming that they had purchased it. They were moved out by the Israel Defense Forces a few days later. The settlers' ownership claim was eventually denied by the Israeli Civil Administration on 28 December 2015.[31] On 20 January 2016, a group of settlers occupied two additional Palestinian houses in the Old City, claiming ownership, before being removed by the soldiers the next day.

28. Since 1994,[32] restricted areas have been established around the five settlements located within H2, covering the main part of the Old City, with several streets prohibited to Palestinian traffic, including some to pedestrian movement. The Protocol Concerning the Redeployment in Hebron foresees the normalization of life in the Old City, including the reopening of Al-Shuhada Street and the wholesale market, but the commitment has not been met. Hundreds of closures by Israeli security forces or physical obstacles remain in Hebron, including 17 permanently staffed checkpoints. Palestinian land in the vicinity of settlements has also been seized on alleged security grounds. More than 1,800 commercial establishments, accounting for 75 per cent of all businesses in the Old City, have closed, most during the second intifada in the early 2000s, mainly as a result of access restrictions for customers and suppliers or on the basis of military orders. More than 1,000 Palestinian homes, or 42 per cent of homes in the Old City, were abandoned by their residents, the majority during the second intifada.[33] Four mosques were also closed in the Old City. What used to be the commercial and cultural heart of Hebron has now been virtually deserted for almost two decades.

29. The Ibrahimi Mosque (Tomb of the Patriarchs), a site of high religious significance to Jews and Muslims, is located in H2. The site was divided in two parts following the 1994 massacre, one for Muslim worshippers and the other for Jewish worshippers. During major religious holidays and for an average of 10 days a year, the site is open to one faith only. During Jewish holidays, thousands of Israeli visitors converge in Hebron, while the movements of Palestinians in the Old City are strictly limited.[34] The Muslim call for prayer is also banned during those holidays. On other days, because of access restrictions to the location from which it is performed, the call for prayer is prevented twice daily and subject to delays at other times.[35]

30. Archaeological works by Israel and related plans to build a tourist centre in the Tel Rumeida area of H2 was another concerning development. While no major advancement was witnessed, previous reports highlight the significant impact that such a project would have on the Palestinian inhabitants of Tel Rumeida (A/69/348, para. 35, A/HRC/31/43, para. 16).

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[31] Peace Now, "Settlers' ownership claim of a Hebron house rejected by the Civil Administration's Registration Committee", 29 December 2015.

[32] On 25 February 1994, an Israeli settler opened fire on Muslim worshippers in the Ibrahimi Mosque (Tomb of the Patriarchs), killing 29 Palestinians and injuring 125 others.

[33] Ofir Feuerstein, *Ghost Town: Israel's separation policy and forced eviction of Palestinians from the centre of Hebron* (B'tselem and Association for Civil Rights in Israel, 2007).

[34] Jews do not face similar practical restrictions during Palestinian holidays.

[35] Data from Ministry of Religious Affairs and Endowment (Al-Waqf).

31. The escalation of violence that began in September 2015 had a significant impact on Hebron, further undermining the living conditions of Palestinians in H2, but also general access to the entire city. Besides restrictions on the main roads leading into Hebron, neighbourhoods adjacent to the settlements in H2, or so-called restricted areas, have been isolated further by additional physical obstacles and frequent inspections on individuals. While such measures add to the coercive environment, concern has also been raised that they may result in collective punishment.[36]

32. On 1 November 2015, the part of Al-Shuhada Street still accessible to Palestinians and the neighbourhood of Tel Rumeida were declared a closed military zone, enforced on Palestinians only, to which only residents officially registered with the Israeli authorities could access. Visitors were not allowed into the zone, including friends, family, medical and maintenance personnel and human rights observers. The military zone was officially lifted on 19 May 2016, after more than half a year of isolation for the approximately 120 Palestinian families living in the neighbourhood of Tel Rumeida and Al-Shuhada Street.

33. In addition to being regularly attacked and intimidated by settlers,[37] human rights defenders active in Hebron have also been affected by increasing pressure from the Israeli security forces, including through the latest security measures on restricted areas. International, Palestinian and Israeli human rights defenders, in particular, have been subjected to arrest, intimidation, raids on their offices and death threats. For instance, additional pressure was placed upon volunteers from the International Solidarity Movement after they had witnessed and documented from their premises the killing by the Israel Defense Forces of two Palestinian men in October 2015. On 29 February 2016, the coordinator of the NGO Youth Against Settlements, Issa Amro, was arrested by security forces for his involvement in the organization of a peaceful demonstration to open Al-Shuhada Street. He was released the next day and reported having been ill-treated in detention.[38]

A. Impact on specific human rights

34. The extraterritorial applicability of human rights law has been recognized by the International Court of Justice and human rights treaty bodies.[39] Accordingly, Israel has the duty to implement its human rights obligations within the Occupied Palestinian Territory with regard to not only Israeli citizens, but also the entire Palestinian population. It has the obligation to exercise due diligence to prevent, investigate, prosecute, punish and remedy harm sustained by the Palestinians in H2, irrespective of whether such harm is caused by officials or individuals, and without any discrimination.

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[36] B'tselem, "New restrictions on movement in Hebron and environs disrupt lives and constitute prohibited collective punishment", 5 November 2015.

[37] A/HRC/31/43, paras. 38 and 39. See also International Solidarity Movement, "Notorious violent criminal settler Anat Cohen assaults and terrorizes internationals again", 27 October 2015.

[38] Youth against Settlements, "Human rights defender, Issa Amro, released after another arrest by Israeli forces", 3 March 2016. Available from: http://hyas.ps/press-release-israeli-soldiers-arrest-human-rights-defender-issa-amro-hold-him-for-24-hours/.

[39] International Court of Justice, Legal consequences of the construction of a wall in the Occupied Palestinian Territory, advisory opinion of 9 July 2004, paras. 110-112. See also A/HRC/25/38, para. 5, and A/69/348.

35. The present section focuses on the impact of the settlements on specific human rights of the Palestinian population living in H2. Besides direct effects, such as settler violence and limitations on freedom of movement, the large numbers of Israeli security forces in and around H2 to ensure the security of settlers carries an important risk of violations.

B. Right to life, liberty and security of person

Excessive use of force and denial of medical assistance

36. The escalation of violence during the last quarter of 2015 was preceded by the killing of 18-year-old Hadeel al-Hashlamoun by the Israel Defense Forces. She allegedly attempted an attack with a knife at a checkpoint in the Old City of Hebron on 22 September 2015. More than eight months after the incident, no criminal investigation appears to have been opened, even though an inquiry by the Forces had concluded that the death was unnecessary and avoidable (A/HRC/31/40, paras. 11-13).

37. Ms. Al-Hashlamoun's killing was the first in a series of incidents in which Palestinians were killed or seriously injured by Israeli security forces around the numerous checkpoints within or leading to H2 while carrying out or allegedly carrying out an attack against Israelis. A total of 24 Palestinians, including 7 children, 2 women and 1 girl, were shot and killed by the security forces during such attacks or alleged attacks. One Palestinian man was killed during clashes. Since the upsurge in violence in September 2015, this is the highest number of Palestinian casualties in a single city, after East Jerusalem.

38. On 24 March 2016, the Israel Defense Forces killed Abdelfattah al-Sharif and Ramzi al-Qasrawi during an alleged stabbing attack against an Israeli soldier in Tel Rumeida. A videotape recorded by a witness and widely circulated in the media shows a soldier shooting Mr. Al-Sharif in the head at close range, while he was lying, apparently wounded but still alive, on the ground, even though he seemed not to pose any immediate threat.[40] He had received no medical treatment from nearby medical staff after his initial injury. The recording of the incident was shared around the world on social media. The Israeli police immediately opened an investigation. Both the United Nations Special Coordinator for the Middle East Peace Process and the United Nations High Commissioner for Human Rights strongly condemned the "apparent extrajudicial execution".[41] Additional witness accounts emerged suggesting that Mr. Al-Qasrawi, the second Palestinian man involved in the incident, might also have been subject to an extrajudicial execution, given that he was shot in the head while lying wounded on the ground.[42]

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[40] See www.youtube.com/watch?v=S8WK2TgruMo.

[41] Nikolay Mladenov, United Nations Special Coordinator for the Middle East Peace Process, statement on the apparent extra-judicial execution of a Palestinian assailant in Hebron in the occupied West Bank, 25 March 2016. Available from: ww.unsco.org/Documents/Statements/SC/2016/Statement%20by%20UN%20Special%20Coordinator%20Mladenov%20-%2025%20March%202016.pdf, and the Office of the United Nations High Commissioner for Human Rights, "Comment by the spokesperson for OHCHR, Rupert Colville, on the killing of a Palestinian man in Hebron", 30 March 2016.

[42] B'tselem, "Testimonies: prior to incident for which Elor Azaria is facing charges, Ramzi al-Qasrawi was also executed", press release, 6 June 2016.

39. On 13 February 2016, Kilzar Eweiwi, an 18-year-old Palestinian woman, reportedly attacked an Israeli soldier with a knife while he was searching her bag at a checkpoint in the Old City. After having lightly injured the soldier, she stabbed a Palestinian bystander while running away into a dead-end yard, with no means to escape. There, according to the injured bystander, two soldiers shot at vital parts of her body with several bullets from a distance of 5 or 6 metres. An eyewitness told the Office of the United Nations High Commissioner for Human Rights (OHCHR) that she was left wounded without medical assistance for approximately 30 minutes before being declared dead.

40. On 25 October 2015, Dania Irshied, a 17-year-old Palestinian girl, was shot and killed by the Israel Defense Forces at the checkpoint leading to the Ibrahimi Mosque. A witness told OHCHR that, after searching the girl's bag, a soldier began shouting at her, repeatedly ordering her to reveal the knife that he alleged she was hiding. The girl continually denied that she was carrying a knife but was shot with several bullets in the upper part of her body while allegedly holding her empty hands in the air. According to witnesses, Ms. Irshied was reportedly left wounded on the ground without medical assistance for approximately 25 minutes. She died at the scene.

41. Similarly, on 26 October 2015, 20-year-old Sa'ad al-Atrash was ki"ed by the Israel Defense Forces at a checkpoint in the Old City for an alleged stabbing attack during what seemed to be a regular identity check. Witnesses reported to OHCHR how a soldier shot at the upper part of his body as Mr. Al-Atrash was handing over his identification. According to those accounts, he was left on the ground without medical assistance for approximately 25 minutes manifestly still alive, despite the nearby presence of an ambulance.

42. On 15 February 2016, 21-year-old Yasmeen al-Zaru was shot by the Israel Defense Forces and critically injured at a checkpoint close to the Ibrahimi Mosque. According to numerous witnesses present at the scene, the soldiers ordered Ms. Al-Zaru to stop once she had already walked through the checkpoint, empty-handed. She was shot in the back by two soldiers from a distance of 6 or 7 metres after apparently ignoring the order. The girl was then left on the ground, bleeding heavily, for approximately 15 minutes. Two witnesses informed OHCHR that an Israeli settler threw a knife near the injured girl while she was on the ground. Ms. Al-Zaru was eventually taken to an Israeli hospital before being arrested on suspicion of an attempted stabbing. At the time of writing, Ms. Al-Zaru was still in prison, but had yet to be indicted.

43. The cases monitored by OHCHR raise serious concerns about the excessive use of force and unlawful killings by the Israeli security forces, including extrajudicial executions (A/HRC/31/40, paras. 10-15). Law enforcement officials, including members of the armed forces acting in that capacity, have the duty to protect the public and the right to protect themselves, but lethal force should only be used when strictly necessary and in accordance with the principle of proportionality. It should be restricted to cases of self-defence or defence of others against an imminent threat of death or serious injury, that is, to situations of last resort.[43] The use of force that does not comply with those principles and results in the death of

[43] Code of Conduct for Law Enforcement Officials, articles 2 and 3, and Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, provisions 5, 9, 13 and 14.

the suspect amounts to an arbitrary deprivation of life.[44] In addition, when the unjustified use of firearms by law enforcement officials of the occupying Power is made against protected persons, this may, depending on the circumstances, amount to an act of wilful killing under international humanitarian law.[45] The cases of Dania Irshied, Sa'ad al-Atrash and Yasmeen al-Zaru are all the more disturbing because OHCHR found no evidence that they were killed within the context of a stabbing or attempted stabbing attack.

44. Systematic delays in the provision of medical assistance to wounded suspects, as documented by OHCHR in all the above-mentioned cases, is an additional concern and may suggest the existence of an established practice. According to international legal principles regulating the use of force by law enforcement officials, medical assistance has to be provided as soon as possible.[46] The loss of life resulting from a failure to respect this principle would also amount to an arbitrary deprivation of life.

45. All allegations of the use of excessive force resulting in death or injury by law enforcement officials should be subject to prompt, independent and impartial investigations. The apparent extrajudicial execution of Mr. Al-Sharif is the only known case of killing by the Israeli security forces during the reporting period that has so far led to an indictment. The soldier that fired the fatal shot at Mr. Al-Sharif has been suspended and is currently facing trial for manslaughter in a military court.

Settler violence and lack of accountability

46. Hebron has been the scene of continuous harassment and violence committed by Israeli settlers against Palestinians, including against children, mostly without legal consequences. The close proximity within which the settlers live with Palestinians in H2 makes this violence all the more acute and dangerous. After a notable peak in instances of settler violence in early October 2015 (A/HRC/31/43, para. 38), rates decreased significantly in the subsequent months. While attacks often take the form of stone-throwing, damage to Palestinian property and verbal harassment, the violence of a number of attacks and the inaction of the Israel Defense Forces when present at the scene are particularly worrying, as illustrated by two cases monitored by OHCHR.

47. On 17 October 2015, Fadel Mohammad Awad al-Qawasmeh was shot by an Israeli settler while walking on Al-Shuhada Street after having been searched. According to witnesses, the settler approached Mr. Al-Qawasmeh in a provocative way, yelling at him. When Mr. Al-Qawasmeh turned back to avoid the settler, the latter shot at him with several bullets, including at the upper part of his body. As seen in a video of the incident recorded by Youth Against Settlements,[47] Mr. Al-Qawasmeh was lying wounded on the ground as a number of soldiers converged on the location. The soldiers neither arrested the settler nor assisted Mr. Al-Qawasmeh, who was left wounded for approximately 25 minutes before eventually being evacuated by Israeli medical personnel and pronounced dead.

[44] International Covenant on Civil and Political Rights, art. 6.
[45] Fourth Geneva Convention, art. 147.
[46] Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, provision 5 (c).
[47] See www.youtube.com/watch?v=opdMYUpMny8.

48. On 4 May 2016, Ra'ed Abu Rmeileh, a former cameraman for the NGO B'tselem, was attacked by Israeli settlers close to the Ibrahimi Mosque when he attempted to videotape settlers harassing Palestinian children. Two settlers assaulted Mr. Abu Rmeileh, punching and hitting him on the head with a sealed soda can until he collapsed. Two soldiers present at the scene did not intervene but were reportedly pointing their weapons at nearby Palestinians and towards the victim while he was being beaten. Once the settlers had escaped, the soldiers assisted the wounded man, who was evacuated by a Palestinian ambulance. Mr. Abu Rmeileh filed a complaint with the Israeli police and identified his assailants. He had not received any update on his complaint at the time of writing the present report.

49. Such incidents seem to illustrate soldiers' consistent failure to stop settlers from harassing Palestinians, intervening only in order to protect the settlers and contain the situation.[48] Such discriminatory law enforcement is of strong concern to the Secretary-General.

50. As the occupying Power, Israel is responsible for ensuring public order and safety within the occupied territory.[49] International humanitarian law provides that protected persons are, in all circumstances, entitled to respect for their persons, honour, family rights and religious convictions and practices. They shall be protected against all acts or threats of violence and against insults.[50] Israel also has the obligation under international human rights law to protect the right to life and physical integrity of Palestinians.[51] Settler violence impedes the enjoyment of numerous other human rights by the affected Palestinian population.[52] Israel is obliged to take measures to prevent and address settler violence, given its duty to respect and ensure the respect of human rights in the Occupied Palestinian Territory, as well as its obligations as an occupying Power. However, Israel is repeatedly failing in its obligation to do its utmost to investigate cases of settler violence and prosecute perpetrators.

C. Impact on children

51. For many years, the living environment in H2 has been particularly harsh for children. Children attending schools in the vicinity of settlements are affected by strict security measures, including daily searches at checkpoints. Students and teachers of Qurtuba school are regularly prevented from accessing the school through the usual routes because of settler harassment and violence and are

[48] B'tselem, "Footage from Hebron: Israeli military enables 5-day settler attack", 19 October 2015.

[49] The Regulations annexed to the Hague Convention of 1907, art. 43. See also Guidelines for Hebron (annex I, art. VII, of the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip of 28 September 1995) and Protocol concerning the Redeployment in Hebron of 21 January 1997, para. 2, and A/67/375, para. 30.

[50] Fourth Geneva Convention, art. 27 (1). See also the Regulations annexes to the Hague Convention, art. 46.

[51] The International Covenant on Civil and Political Rights, art. 6.

[52] This includes the right not to be subjected to cruel or inhuman treatment (International Covenant on Civil and Political Rights, art. 7), the right to privacy, family and home (International Covenant on Civil and Political Rights, art. 17), the right to an adequate standard of living (International Covenant on Economic, Social and Cultural Rights) and the right to property (Universal Declaration of Human Rights, art. 17, and International Convention on the Elimination of All Forms of Racial Discrimination, art. 5).

sometimes obliged to seek alternative routes, leading to major delays. It was reported that seven students had dropped out of Al-Ibrahimiya school since October 2015 because of the heightened risks and security measures at the checkpoints and that the school would be empty by now if the Palestinian authorities had allowed students to move to other schools. The principals of both schools reported a decline in academic results during the same period. Children visiting the Al-Saraya kindergarten were escorted by members of the NGO Christian Peacemaker Teams for the entire school year to help them through checkpoints and protect them from settler violence.

52. Palestinian children are particularly vulnerable to settler violence (A/67/375, para. 22). The current situation of children living in H2 reflects a failure by the occupying Power to ensure their well-being and to protect them from physical and mental violence, injury and abuse, as guaranteed by human rights law.[53]

53. OHCHR interviewed a resident whose house in Tel Rumeida overlooks the checkpoint and settlements. She reported a number of attacks by settlers against children as young as eight years of age living in her house, including slapping, spraying with pepper and beating with sticks. The children living in this house, like many other children in the area, are now confined to playing indoors, given that their parents fear that they would be subject to further assaults if they played outside. Settler children are reportedly often equipped with pepper spray, batons or whips when walking through restricted areas. Palestinian families living in those neighbourhoods are also constantly worried about their children having to cross checkpoints, given the risk of being arrested on false allegations made by settlers. Their children have witnessed numerous scenes of violence, including the killing of several Palestinians by the Israel Defense Forces, which adds to their psychological distress and trauma.

54. Eleven-year-old Marwan Mofeed al-Sharabati lives on Al-Shuhada Street, close to the Israel Defense Forces base and settlement of Beit Romano. On 18 September 2015, after he complained to a soldier that his bike had been stolen by a child living in a nearby Israeli settlement, Marwan, reportedly crying out of fear, was forcibly taken to the military base where he found his bicycle. He was later arrested by soldiers on the basis of allegations by settlers that he had thrown stones at them. He was handcuffed, blindfolded, verbally threatened and harassed for an hour before being released. Marwan's father explained to OHCHR that the boy had suffered from nightmares and bed-wetting ever since. The NGO Palestinian Prisoners Club reported the arrest of 117 children in H2 and H1 by the Israeli security forces.

55. Such cases are familiar to the NGO Doctors without Borders, which has been providing psychosocial support to families residing in H2. According to the organization, the vast majority of children residing in Tel Rumeida and Al-Shuhada Street, in particular those that witnessed the killings of Palestinians, are suffering from acute traumatic symptoms, such as fear, irritability and nightmares.

[53] Convention of the Rights of the Child, arts. 3 and 19.

D. Right to health and to an adequate standard of living

56. Adequate access to health services is a serious concern within H2. In addition to Israel's obligations under international human rights law, including the rights to an adequate standard of living and to the highest attainable standard of physical and mental health,[54] the Secretary-General recalls Israel's responsibility, as an occupying Power, to ensure proper access to health-care facilities and services to the whole population, without discrimination.[55]

57. In the restricted areas of Tel Rumeida and Al-Shuhada Street, access for Palestinian ambulances is provided after coordination by the International Committee of the Red Cross with the Israeli Civil Administration. However, this system has caused significant delays and Palestinians no longer rely on it for an emergency first response. Instead, the Palestinian ambulance is left at the checkpoint while the medical personnel cross on foot to reach the patient. This can cause life-threatening delays.

58. On 21 December 2015, Hashem Al'Azzeh, a well-known human rights defender, who had a heart condition, lost consciousness in Tel Rumeida after a possible heart attack. His relatives carried him through the checkpoint, where they were delayed for some minutes by Israel Defense Forces security procedures. On the way, Mr. Al'Azzeh was further exposed to tear gas from nearby clashes. He was pronounced dead upon reaching the hospital.

59. The overbearing military presence and security operations, alongside security restrictions imposed on Palestinians, impede their movement and daily activities, including access to basic services. The closure of businesses also creates a challenging environment for H2 residents to maintain their livelihood and an adequate standard of living. Security measures and access restrictions also have considerable consequences on the social life of H2 residents, given that access to visitors is restricted or banned. Israeli building restrictions preventing the extension of houses located close to settlements have also forced new generations of families to relocate to different areas, mainly in H1.

60. Settler violence and a lack of accountability exacerbate the vulnerabilities created by the already dire living conditions in H2. Paradoxically, the absence of regular policing, away from settler incidents, has turned H2 into a safe haven for criminals. Drug trafficking, smuggling and other crimes have flourished in areas suffering from this security gap, adding to the coercive environment that is forcing Palestinian families out of the area.

E. Forced to leave

61. The coercive environment within H2, added to the events of the past eight months, the deteriorating living conditions and the constant feeling of insecurity, have forced families to move out of H2, as recorded by OHCHR.

62. In November 2015, Ra'ed Sider, his wife and six children moved out of the house in Tel Rumeida, where they had lived since 2000, and relocated to H1.

[54] International Covenant on Economic, Social and Cultural Rights, arts. 11 and 12.

[55] Fourth Geneva Convention, art. 56.

Mr. Sider took this decision mainly out of concern for the safety of his five sons, ranging from 7 to 15 years of age, and the psychological impact that recent events had had on them. Mr. Sider was also concerned for the safety of his eldest son, who had been stopped and harassed by the Israel Defense Forces on a number of occasions. Additional factors influencing his decision included the increasing security measures at checkpoints, constraints on freedom of movement during security incidents, the constant attacks by settlers and the lack of law enforcement. He recalled how relatives visiting during Ramadan in 2014 were stopped and harassed by soldiers and then arrested when his house was raided during the iftar meal. "The atmosphere for living has become unbearable and we cannot stand it anymore. It is about the safety of our children; otherwise, we don't mind sacrificing ourselves," Mr. Sider told OHCHR.[56]

63. OHCHR interviewed another Palestinian from Tel Rumeida, Nidal Salhab, who is planning to leave the area out of concern for the safety of his four boys ranging from 6 to 16 years of age. His eldest son had already moved to H1 after being seriously injured by live fire from the Israel Defense Forces while returning home late at night on 1 December 2015. According to Mr. Salhab, "Restrictions on everyday life activities, the stress around the clock fearing security incidents, concern for the children's well-being and the unpredictable responses of the IDF and settlers have created an extremely uncomfortable atmosphere to live in. Besides, the strict measures imposed by the soldiers manning the checkpoint have become unbearable and have significantly hampered our daily life".[57]

64. The adverse impact of Israeli settlements within the Old City of Hebron on Palestinians' security and standard of living is striking. Palestinians are forced to leave H2 owing to the coercive environment, and the Secretary-General is concerned about possible instances of forcible transfers. As more Palestinian families leave H2, Israeli settlement will likely expand, further adding to the deteriorating living conditions of the remaining Palestinians.

V. Settlements in the occupied Syrian Golan

65. Illegal settlement expansion in the occupied Syrian Golan continued with the support of the Government of Israel, in violation of Israel's obligations under international humanitarian law, international human rights law and numerous Security Council resolutions.[58] The expansion has reportedly included a building boom in the kibbutz of Merom Golan, the ongoing "farms project" with plans for up to 750 new settler farms in the coming years and Israeli Government public spending plans of hundreds of millions of shekels to increase the population by up to 100,000 settlers by 2020.[59] The Secretary-General notes with particular concern the statement by the Prime Minister, Benjamin Netanyahu, at a Cabinet meeting held in the occupied Syrian Golan on 17 April 2016 asserting that "the Golan Heights will forever remain in Israel's hands. Israel will never come down from the Golan Heights. The population on the Golan Heights grows year by year; today it

[56] Interview of 5 May 2016.
[57] Interview of 3 May 2016.
[58] See Security Council resolution 497 (1981). See also A/70/351.
[59] Jodi Rudoren, "As Syria reels, Israel looks to expand settlements in Golan Heights" *New York Times*, 2 October 2015. See also A/70/406 para. 12.

numbers approximately 50,000 and there are thousands of families due to join them in the coming years".[60]

66. The Secretary-General draws attention to the Security Council's deep concern over such statements by Israel about the occupied Syrian Golan and reaffirms the validity of resolution 497 (1981), in which the Council decided that, "the Israeli decision to impose its laws, jurisdiction and administration in the occupied Syrian Golan Heights is null and void and without international legal effect".

VI. Conclusions and recommendations

67. Israeli settlement activities remain at the core of many human rights violations in the West Bank, including East Jerusalem. The Secretary-General reiterates that Israeli settlements within the Occupied Palestinian Territory are illegal under international law.

68. Israel must implement all relevant United Nations resolutions, including Security Council resolution 497 (1981), and withdraw from territories occupied in 1967. The Israeli authorities must halt and reverse the creation and expansion of illegal settlements in the Occupied Palestinian Territory and in the occupied Syrian Golan built in violation of international humanitarian law and international human rights law.

69. Israeli authorities must stop issuing plans and tenders and stop retroactively legalizing outposts and other unauthorized constructions. They must also halt expanding the area effectively occupied by settlements by other means, such as the development of archaeological and tourist parks. The Israeli authorities must also discontinue their support for private settler organizations' initiatives aimed at the seizure of Palestinian properties and the forced eviction of their residents.

70. The Israeli authorities must cease discriminatory and unlawful planning processes in the West Bank, including East Jerusalem. More specifically, Israel must refrain from implementing evictions and demolition orders on the basis of discriminatory and illegal planning policies, laws and practices that may lead to forcible transfer.

71. Israel must respect human rights law within the Occupied Palestinian Territory. In view of its obligation to maintain internal security and public order in the West Bank, Israel must ensure proper enforcement of the law without discrimination, including against settlers who commit acts of violence against Palestinians. The Secretary-General reiterates that the Israeli authorities must ensure full criminal accountability for perpetrators of such acts. In addition, Israel must take all feasible measures to prevent such violence and fulfil its international obligations to provide effective remedy for victims.

72. Israel must protect the Palestinian population from arbitrary deprivation of life. Any suspected case of excessive use of force by law enforcement officials must be properly investigated and the perpetrators prosecuted. According to human rights obligations, Israel must also ensure proper access to health care,

[60] Israel, Ministry of Foreign Affairs, Cabinet communique, 17 April 2016. Available from: http://mfa.gov.il/MFA/PressRoom/2016/Pages/Cabinet-communique-17-April-2016.aspx.

education and an adequate standard of living to Palestinians living in the Occupied Palestinian Territory. The coercive environment that results from the lack of respect for human rights is a factor that has forced Palestinian families to relocate, as has been the case in the Old City of Hebron.

73. **Displacement and relocation to alternative residential areas, as a result of demolition orders, forced eviction or a coercive environment, may amount to forcible transfer, in violation of Israel's obligations under international humanitarian law and human rights law.**